

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 1273

By: Monson

AS INTRODUCED

An Act relating to consumer credit; amending 14A O.S. 2001, Sections 2-203 and 3-109, which relate to delinquency charges and definitions; modifying amount of delinquency charges for which parties may contract for certain credit transactions; modifying exclusions from certain definition; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 14A O.S. 2001, Section 2-203, is amended to read as follows:

Section 2-203. (1) With respect to a consumer credit sale, refinancing, or consolidation, including a revolving charge account, the parties may contract for a delinquency charge on any installment not paid in full within ten (10) days after its scheduled due date as follows:

(a) an amount, not exceeding the greater of five percent (5%) of the full installment or Five Dollars (\$5.00), subject to adjustment pursuant to Section 1-106 of this title, ~~which is five percent (5%) of the unpaid amount of the installment;~~ or

(b) the deferral charge, as set forth in subsection (1) of Section 2-204 of this title, that would be permitted to defer the unpaid amount of the installment for the period that it is delinquent.

However, a minimum late fee of Five Dollars (\$5.00) may be contracted for by the parties under either paragraph (a) or (b) of this subsection.

(2) A delinquency charge under paragraph (a) of subsection (1) of this section may be collected only once on an installment however long it remains in default. No delinquency charge may be collected if the installment has been deferred and a deferral charge, Section 2-204 of this title, has been paid or incurred. A delinquency charge may be collected at the time it accrues or at any time thereafter.

(3) No delinquency charge may be collected on an installment which is paid in full within ten (10) days after its scheduled installment due date even though an earlier maturing installment or a delinquency charge on an earlier installment may not have been paid in full. For purposes of this subsection payments are applied first to current installments and then to delinquent installments.

(4) With regard to a revolving account, no more than one delinquency charge may be imposed in each billing cycle and it may be collected at any time after it accrues either independently of any payment made on the account or from a payment made if the seller discloses delinquency charges to the buyer on the billing statement.

SECTION 2. AMENDATORY 14A O.S. 2001, Section 3-109, is amended to read as follows:

Section 3-109.

(1) (a) "Loan finance charge" means a finance charge composed of the sum of:

(i) all charges payable directly or indirectly by the debtor and imposed directly or indirectly by the lender as an incident to the extension of credit, including any of the following types of charges, which are applicable: interest or any amount payable under a point, discount, or other system of charges, however denominated, premium or other charge for any guarantee or insurance protecting

the lender against the debtor's default or other credit loss; and

(ii) charges incurred for investigating the collateral or credit worthiness of the debtor or for commissions or brokerage for obtaining the credit, irrespective of the person to whom the charges are paid or payable unless the lender had no notice of the charges when the loan was made.

(b) The term does not include charges as a result of default, additional charges under Section 3-202 of this title, delinquency charges under Section 3-203 of this title, over-the-limit charges and returned item charges under paragraph (b) of Section 3-203.2 of this title, deferral charges under Section 3-204 of this title, charges of a type payable in a comparable cash transaction, or sellers points. The finance charge shall not include fees and amounts imposed by third-party closing agents, including settlement agents, attorneys, and escrow and title companies, if the creditor does not require the imposition of the charges or the services provided and does not retain the charges. Examples of charges which are included in the finance charge include any of the following types of charges which are applicable:

- (i) Interest, time price differential, and any amount payable under a point, discount, or other system of additional charges;
- (ii) Service or carrying charge;
- (iii) Loan fee, finder's fee, or similar charge;
- (iv) Fee for an investigation or credit report;

- (v) Premium or other charge for any guarantee or insurance protecting the creditor against the obligor's default or other credit loss; and
- (vi) Borrower-paid mortgage broker fees, including fees paid directly to the broker or the lender, for delivery to the broker, whether such fees are paid in cash or financed.

(2) If a lender makes a loan to a debtor by purchasing or satisfying obligations of the debtor pursuant to a lender credit card or similar arrangement, and the purchase or satisfaction is made at less than the face amount of the obligation, the discount is not part of the loan finance charge.

SECTION 3. This act shall become effective November 1, 2002.

48-2-2768

CD

6/12/2015 10:58:14 AM